

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

PREAMBLE

- | <u>1. Sections Affected</u> | <u>Rulemaking Action</u> |
|-----------------------------|--------------------------|
| R4-9-117 | Amend |
| R4-9-121 | Repeal |
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1104(5) and (6)
Implementing statute: A.R.S. § 32-1104(5) and (6)
 - 3. The effective date of the rules:**
August 30, 2003
 - 4. A list of all previous notices appearing in the Register addressing the final rules:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 2849, July 5, 2002
Notice of Proposed Rulemaking: 9 A.A.R. 1186, April 11, 2003
 - 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Alan Felber, Chief of Licensing
Address: Registrar of Contractors
800 W. Washington, 6th Floor
Phoenix, AZ 85007
Telephone: (602) 542-1525
Fax: (602) 542-7852
E-mail: alan.felber@roc1.rc.state.az.us
 - 6. An explanation of the rules, including the agency's reasons for initiating the rules:**
Amend R4-9-117 to make the rule concise, understandable, gender neutral, and more useful to the agency in protecting the public from unscrupulous or unqualified contractors.
R4-9-121 is an expired contractors' license fee schedule, which was replaced by R4-9-130.
 - 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
 - 8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
 - 9. The summary of the economic, small business, and consumer impact:**
The economic impact on all affected parties is favorable because the amendments to R4-9-117 will allow the Registrar of Contractors and Administrative Law Judges to consider prior citations and complaints in making decisions and orders.
The change to R4-9-121 will have no economic effect because this rule is no longer used.

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10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

None

11. A summary of the comments made regarding the rules and the agency response to them:

No comments were received.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

13. Incorporations by reference and their location in the rules:

None

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 9. REGISTRAR OF CONTRACTORS

ARTICLE 1. GENERAL PROVISIONS

Section

R4-9-117. Prior Record

R4-9-121. ~~Schedule of Fees Through December 31, 1993~~ Repealed

ARTICLE 1. GENERAL PROVISIONS

R4-9-117. Prior Record

In any disciplinary proceeding conducted by the Registrar, the licensee's entire license file including the record of prior citations and decisions may be considered by the Registrar in making his a decision and order in the case, before him, provided these records are introduced into evidence.

R4-9-121. ~~Schedule of Fees Through December 31, 1993~~ Repealed

Until December 31, 1993, the following annual license application fees, annual license renewal fees and fees for other services shall be applicable in accordance with the provisions of A.R.S. §§ 32-1123.01 and 32-1126:

- 1. ~~RESIDENTIAL CONTRACTORS:~~
 - a. ~~General Residential Contractor:~~
Fee for license application \$300.00
 - b. ~~General Residential Contractor:~~
Fee for license renewal \$160.00
 - e. ~~Specialty Residential Contractor:~~
Fee for license application \$200.00
 - d. ~~Specialty Residential Contractor:~~
Fee for license renewal \$135.00
- 2. ~~COMMERCIAL CONTRACTORS:~~
 - a. ~~General Commercial Contractor (includes General Engineering Contractor):~~
Fee for license application \$600.00
 - b. ~~General Commercial Contractor (includes General Engineering Contractor):~~
Fee for license renewal \$320.00
 - e. ~~Specialty Commercial Contractor:~~
Fee for license application \$400.00
 - d. ~~Specialty Commercial Contractor:~~
Fee for license renewal \$270.00
- 3. ~~FEES FOR OTHER SERVICES:~~
 - a. ~~Application to change qualifying party~~ \$100.00
 - b. ~~Application to change name of licensee~~ \$30.00
 - e. ~~Initial examination fee~~ \$60.50
 - d. ~~Retake examination fee~~ \$27.50

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TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

PREAMBLE

- 1. Sections Affected** **Rulemaking Action**
R4-23-401 New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
Authorizing statute: A.R.S. § 32-1904(A)(1)
Implementing statute: A.R.S. § 41-1073
- 3. The effective date of the rule:**
August 30, 2003
- 4. A list of all previous notices appearing in the Register addressing the rule:**
Notice of Rulemaking Docket Opening: 8 A.A.R. 4852, November 22, 2002
Notice of Proposed Rulemaking: 9 A.A.R. 503, February 21, 2003
- 5. The name and address of agency personnel with whom persons may communicate regarding the rule:**

Name:	Dean Wright, Compliance Officer
Address:	Board of Pharmacy 4425 W. Olive, Suite 140 Glendale, AZ 85302
Telephone:	(623) 463-2727, ext. 131
Fax:	(623) 934-0583
E-mail:	rxcop@msn.com
- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
During a review of the Board's hospital rules in October 2002, G.R.R.C. staff noticed that there are no time-frame rules for the Board's approval of a hospital pharmacy's request to use less than the rule's minimum required 40 hours of pharmacist time per week. It was determined that time-frame rules were needed to address not only this issue, but any time the Board approved a special request by a licensee or permittee to deviate from or waive compliance with a Board rule. The rule adds a new Section R4-23-401. The new Section has the heading, Time-frames for Board Approvals and Special Requests, and will include the requirements for requesting a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter and time-frames for approval or denial of the request.

The Board believes that approval of these rules benefits the public and the pharmacy community by clearly establishing the requirements for requesting a Board approval required by Board rules or a special request to deviate from or waive compliance with a requirement of Board rules and time-frames for approval or denial of the request.
- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 8. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 9. The summary of the economic, small business, and consumer impact:**
The rule has no economic impact on the regulated community, small business, or the general public. The rule is necessary to comply with the requirements in the Administrative Procedure Act related to an agency's establishment of time-frames. The rule establishes the Board's office procedures when a licensee or permittee seeks a Board approval required by rule or permission to deviate from or waive compliance with the requirements of a Board rule. The only economic impact is on the Board for personnel time spent in the rulemaking process. That economic impact is minimal.

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The Board, the public, and the pharmacy community form a rule that clearly establishes the requirements for requesting a Board approval required by Board rules or a special request to deviate from or waive compliance with a requirement of Board rules and time-frames for approval or denial of the request.

10. A description of the changes between the proposed rule, including supplemental notices, and final rule (if applicable):

At the request of G.R.R.C. staff, the Board made some minor grammatical changes, renumbered subsection (F) to subsection (G), and added non-substantive, clarifying language to subsection (F).

11. A summary of the comments made regarding the rule and the agency response to them:

There were no comments.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rule:

None

14. Was this rule previously approved as an emergency rule?

No

15. The full text of the rule follows:

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 23. BOARD OF PHARMACY

ARTICLE 4. PROFESSIONAL PRACTICES

Section

R4-23-401. ~~Repeated~~ Time-frames for Board Approvals and Special Requests

ARTICLE 4. PROFESSIONAL PRACTICES

R4-23-401. ~~Repeated~~ Time-frames for Board Approvals and Special Requests

- A.** To request a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter, a person shall send a letter by regular mail, e-mail, or facsimile to the Board office, detailing the nature of the approval or special request, including the applicable Arizona Revised Statute or administrative code citation. This Section does not apply to a request from a person regarding the probation, suspension, or revocation of a license or permit.
- B.** The Board office shall complete an administrative completeness review within 15 days from the date of receipt of a written request and immediately open a request file for the applicant.
1. The Board office shall issue a written notice of administrative completeness to the applicant if no deficiencies are found in the request.
 2. If the request is incomplete, the Board office shall provide the applicant with a written notice that includes a comprehensive list of the missing information. The 15-day time-frame for the Board office to finish the administrative completeness review is suspended from the date the notice of incompleteness is served until the applicant provides the Board office with all missing information.
 3. If the Board office does not provide the applicant with notice regarding administrative completeness, the request is deemed complete 15 days after receipt by the Board office.
- C.** An applicant with an incomplete request shall submit all of the missing information within 30 days of service of the notice of incompleteness.
1. If an applicant cannot submit all missing information within 30 days of service of the notice of incompleteness, the applicant may send a written request for an extension to the Board office post-marked or delivered no later than 30 days from service of the notice of incompleteness.
 2. The written request for an extension shall document the reasons the applicant cannot meet the 30-day deadline.
 3. The Board office shall review the request for an extension of the 30-day deadline and grant the request if the Board office determines that an extension of the deadline will enable the applicant to assemble and submit the missing information. An extension shall be for no more than 30 days. The Board office shall notify the applicant in writing of its decision to grant or deny the request for an extension. An applicant who requires an additional extension shall submit an additional written request according to subsections (C)(1) and (C)(2).
- D.** If an applicant fails to submit a complete request within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).

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- E.** From the date on which the administrative completeness review of a request is finished, the Board shall complete a substantive review of the applicant's request in no more than 120 days.
 - 1. The Board shall:
 - a. Approve the request.
 - b. Deny the request, or
 - c. If the Board determines deficiencies exist, request that the applicant produce additional documentation.
 - 2. If the Board approves or denies, the Board office shall issue a written approval or denial.
 - 3. If the Board finds deficiencies during the substantive review of a request, the Board office shall issue a written request to the applicant for additional documentation.
 - 4. The 120-day time-frame for a substantive review of a request for approval or special request is suspended from the date of a written request for additional documentation until the date of the next Board meeting after all documentation is received. The applicant shall submit the additional documentation according to subsection (C).
 - 5. If the applicant and the Board office mutually agree in writing, the 120-day substantive review time-frame may be extended once for no more than 30 days.
- F.** If the applicant fails to submit the additional information requested within the time allowed, the Board office shall close the applicant's request file. An applicant whose request file is closed and who later wishes to obtain an approval or special request shall apply again according to subsection (A).
- G.** For the purpose of A.R.S. § 41-1072 et seq., the Board establishes the following time-frames for a Board approval required by this Chapter or a special request to deviate from or waive compliance with a requirement of this Chapter:
 - 1. Administrative completeness review time-frame: 15 days;
 - 2. Substantive review time-frame: 120 days; and
 - 3. Overall time-frame: 135 days.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

PREAMBLE

- 1. Sections Affected**

R12-4-401	Amend
R12-4-406	Amend
R12-4-407	Amend
R12-4-408	Amend
R12-4-409	Amend
R12-4-412	Repeal
R12-4-413	Amend
R12-4-417	Amend
R12-4-420	Amend
R12-4-423	Amend
R12-4-430	New Section
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statutes: A.R.S. § 17-101 for R12-4-401; A.R.S. §§ 17-231(B)(8) and 17-306 for R12-4-406 and R12-4-430; A.R.S. §§ 17-238 and 17-306 for R12-4-407, R12-4-408, R12-4-409, R12-4-412, R12-4-413, R12-4-417, and R12-4-423; A.R.S. § 17-238 for R12-4-413; A.R.S. §§ 17-231(B)(8), 17-238, and 17-306 for R12-4-420

Implementing statutes: A.R.S. §§ 17-101, 17-231, 17-238, 17-306, and 17-307
- 3. The effective date of the rules:**

August 30, 2003
- 4. A list of all previous notices appearing in the Register addressing the final rules:**

Notice of Rulemaking Docket Opening: 8 A.A.R. 2579, June 14, 2002

Notice of Proposed Rulemaking: 8 A.A.R. 4746, November 15, 2002

Notice of Supplemental Rulemaking: 9 A.A.R. 986, March 21, 2003

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5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:

Name: Mark E. Naugle, Manager, Rules and Risk Management
Address: Arizona Game and Fish Department DORR
2221 W. Greenway Road
Phoenix, AZ 85023-4399
Telephone: (602) 789-3289
Fax: (602) 789-3677

6. An explanation of the rules, including the agency's reasons for initiating the rules:

R12-4-430. Importation, Handling, and Possession of Cervids

The rulemaking will impose regulations on cervids designated as restricted live wildlife in R12-4-406(B)(9)(b), including a ban on their importation into Arizona, to prevent the introduction of chronic wasting disease to free-ranging or captive wildlife in the state.

Chronic wasting disease (CWD) was first recognized by biologists in the 1960s as a disease syndrome of captive deer held in wildlife research facilities in Ft. Collins, Colorado, but was not recognized as a transmissible spongiform encephalopathy until the late 1970s. This disease was subsequently recognized in captive deer, and later in captive elk, from wildlife research facilities near Ft. Collins, Kremmling, and Meeker, Colorado, and Wheatland, Wyoming, as well as in at least two zoological collections. More recently, CWD has been diagnosed in privately-owned elk and closely-related red deer residing on game ranches in several Western states and provinces. Although CWD was first diagnosed in captive research cervids, the original source (or sources) of CWD in either captive cervids or free-ranging cervids is unknown; whether CWD in research animals really preceded CWD in the wild, or *vice versa*, is equally uncertain.

Much of the information on this disease comes from the endemic area of northeastern Colorado and southeastern Wyoming where it appears that, on average, CWD probably infects about 5-15 percent of the deer. Modeling of the impact of this disease indicates that this rate of infection is sufficient to suppress deer population levels in this area.

In addition to cases in captive research and free-ranging deer and elk, CWD has been diagnosed in privately-owned elk on game farms in several states beginning in 1996. Infection has been particularly severe in a group of interconnected facilities near Rapid City, South Dakota, that appear to be the original source of infection for other South Dakota game farms as well as the Saskatchewan epidemic. In contrast, infected elk in two of three Nebraska farms originated in Colorado, and infected elk in Oklahoma apparently originated in Montana; CWD has been confirmed in the Montana and Colorado source herds.

At this time, the detection of CWD in new areas is expanding rapidly as there have been detections in free-ranging deer in additional areas of Nebraska, Alberta, Wisconsin, New Mexico, and South Dakota during 2002. In addition to the problems associated with this disease on free-ranging populations, there is also a significant economic impact with the detection of the disease in both free-ranging and captive cervids. As an example, Saskatchewan has spent approximately \$30 million in attempts at eradicating the disease in infected game farms. In Wisconsin, where the disease was detected in Spring 2002, the cost of collections for additional detection of the disease and for information dissemination is approximately \$250,000, and the state of Wisconsin has estimated that it will need \$22.5 million over the next three years to fight the disease. In Colorado, a supplemental appropriation of \$300,143 was made in December 2001, and an additional appropriation of \$430,750 was requested for the fiscal year beginning on July 1, 2002.

One problem with this disease is that it is virtually impossible to eradicate once it enters into a jurisdiction. This conclusion is based on the fact that there is no live animal test for the disease, so an agency cannot implement testing and elimination of only infected animals. Second, there is a long incubation period associated with the disease. Some of the research that has been completed suggests that the incubation period may be up to 36 months, and perhaps even longer. Another problem is that epidemiological links from one positive herd to 38 other infected captive elk herds in Saskatchewan and the shipment of exposed elk from one infected captive elk operation in Colorado to facilities in 19 states indicate the potential for the spread of CWD via the captive cervid industry. This means that from a few herds, the disease has the potential to spread to many states. Finally, a significant issue with this disease is that one of the measures considered to control its spread is extreme reduction of animal density. This entails removal of a large number of deer that otherwise could be harvested by hunters, which in turn equates to a potential economic loss not only to the Department but also to local businesses, such as restaurants and hotels that are supported by hunters. As an example, Wisconsin is planning to remove up to 25,000 animals to aid in management of this disease. Hunters could otherwise harvest these animals. The projected loss to the rural economy is estimated at several million dollars.

In summary, there is a lot of information needed to better understand the disease. At this time, however, the most effective management approach has to be to take measures to ensure, to the greatest extent possible, that the disease does not enter into Arizona. If it does, there will be substantial financial impact to the Department, captive cervid breeders, and the rural economy that is supported, in part, by hunting. At this time, the only groups that are affected by the rulemaking are those maintaining cervids under the auspice of a game farm permit, a wildlife holding permit, or a zoo permit issued by the Department. This is a very small number of permittees. In addition, anyone holding a

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non-native cervid would be required to inform the Department of the type and number of cervids they possess. In considering the potential adverse impact to a multitude of businesses through loss of hunting related revenue, this approach is clearly a benefit to the state's economy.

The new rule will include the following specific requirements related to chronic wasting disease (CWD) in cervids:

1. An individual, including special license holders, shall not import a live cervid (defined as a member of the deer family found anywhere in the world) into Arizona unless the individual has a Zoo License as allowed in subsection (K) of new Section R12-4-430. The individual shall quarantine the cervid for 30 days after import, and shall procure the cervid from a facility that complies with all of the following requirements:
 - i. The exporting facility has no history of chronic wasting disease or other diseases that pose a serious health risk to wildlife or humans, and there is accompanying documentation from the facility certifying such history;
 - ii. The cervid is accompanied by a health certificate issued by a licensed veterinarian in the jurisdiction of origin within 30 days of import; and
 - iii. The cervid is accompanied by evidence of lawful possession as defined in R12-4-401(8).
2. An individual shall not transport a live cervid within Arizona except to:
 - i. Export the live cervid from Arizona for a lawful purpose;
 - ii. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
 - iii. Transport the live cervids to or from a licensed veterinarian for medical care; or
 - iv. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
 - a. The current holding facility has been sold or closed;
 - b. Ownership, possession, custody, or control of the cervid will not be transferred to another individual; and
 - c. The owner of the cervid has prior written approval from the Director of the Arizona Game and Fish Department.
3. A licensee in possession of any native cervid in Arizona under the authority of a Department issued Wildlife Holding, Game Farm, or Zoo License shall permanently mark each cervid with either a tattoo or a microchip within 30 days of the effective date of this rule.
4. A Wildlife Holding, Game Farm, and Zoo licensee in possession of any native cervid shall submit the head of each native cervid that dies to the Arizona Vet Diagnostic Lab for CWD analysis. The Department shall pay for the testing.
5. A licensee that maintains any cervid at a facility under a Wildlife Holding, Game Farm, or Zoo License shall keep a record of each cervid moved onto or off of the facility and provide these records to the Department upon request.
6. Any individual that holds a cervid not listed as a native cervid in R12-4-430 shall provide the Department with a report that lists the number and species of cervids held. The number of people impacted by this portion of the rule is unknown, as there is no requirement to notify the Department of these animals at this time. Although the number of animals is unknown, the Department estimates that the number of animals held is less than 500.

R12-4-401. Live Wildlife Definitions

R12-4-406. Restricted Live Wildlife

R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife

R12-4-408. Holding wildlife for the Department

R12-4-409. General Provisions and Penalties for Special Licenses

R12-4-412. Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License Repealed

R12-4-413. Private Game Farm License

R12-4-417. Wildlife Holding License

R12-4-420. Zoo License

R12-4-423. Wildlife Rehabilitation License

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Rule changes to R12-4-401, R12-4-406, R12-4-407, R12-4-408, R12-4-409, R12-4-412 (which is being repealed and replaced by provisions in R12-4-430), R12-4-413, R12-4-417, R12-4-420, and R12-4-423 are administrative in nature, made necessary by new rule R12-4-430, which is designed to prevent the introduction of chronic wasting disease to free-ranging or captive wildlife in the state. The rulemaking also makes technical corrections and drafting style changes to make the rule language consistent with the current requirements for rulemaking language and style. The only costs of the changes are those associated with the rulemaking process itself. The Department will benefit from consistent implementation of associated rule changes, while the public will benefit from having improved rules that are clear, concise, and more easily understandable.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on in its evaluation of or justification for the rule or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

None

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

R12-4-430. Importation, Handling, and Possession of Cervids

This rule would directly impact individuals or organizations that import cervids (animals of the deer family) under either a zoo or game farm license issued by the Arizona Game and Fish Department and those who currently maintain cervids that are not listed as native cervids in R12-4-430. Currently, there are very few of these permits issued (33 game farm and 16 zoo). The number of people impacted that maintain non-native cervids is unknown as there is no requirement to notify the Department of these animals at this time. Although the number of animals is unknown, we estimate that the number of animals held is less than 500.

It is difficult to assess the actual cost of this rule because it does not preclude continued operations of existing programs, such as breeding cervids held at the time of enactment of this rule, or marketing of live animals or animal parts. Private game farms with cervids will be required to mark their livestock with a microchip or tattoo, costing respectively \$5-\$10 and \$1 per animal. Total cost would depend upon the size of the herd. Conversely, if chronic wasting disease (CWD) were to be established in Arizona, the cost would be high and the number of people adversely impacted would be high. One of the primary groups that would be adversely impacted if the disease were detected in Arizona are licensees who hold cervids under the auspice of a special license as it will be much more difficult to market the animals if the disease is detected in Arizona.

That CWD is being spread through game-farmed cervids is indisputable. There is a question about the mechanism by which CWD is spread between animals; however, there is ample evidence that indicates that the spread is horizontal (from one animal to another of similar type) and there is thus a risk posed to the native deer and elk in Arizona if CWD is inadvertently introduced into the state. If CWD is introduced into the state and be spread to wild native cervids, hundreds of thousands of hunters in the state would be adversely affected. Further, hotels, restaurants, gas stations, sporting good stores, and other businesses that draw economic benefit from hunting would also be adversely impacted. Finally, the cost to the state would be high if CWD is introduced. Management of CWD in Saskatchewan has cost approximately \$30,000,000. A recent detection in Wisconsin has cost the state wildlife agency approximately \$250,000 in the first month and the costs continue to rise, with the state estimating that it will need \$22.5 million over the next three years to fight the disease. In Colorado, management of the disease required an additional appropriation from the state Legislature of approximately \$350,000. A National Plan for management of chronic wasting disease has been developed to aid state, federal, and tribal organizations in dealing with issues related to this disease. Full implementation of the plan exceeds 100 million dollars and this amount does not reflect loss of revenue from decreased hunter interest in harvesting wildlife. Simply put, management of this disease is a tremendously expensive proposition for the state, and measures must be taken to prevent its introduction into Arizona. It is important to point out that the costs are not entirely economic. There has been considerable outcry from those interested in animal rights and agencies have lost credibility with the public due to the slaughter of several thousand deer as part of the management of CWD in free-ranging wildlife.

While there is no known connection between CWD and human disease, because of the similarity of this disease to "mad cow disease" there is natural concern from hunters who harvest native cervids. If CWD becomes established in Arizona, there would be a loss of interest in obtaining permits to harvest deer and elk. There would also be a significant loss to local (and mostly rural) economies, if fewer hunters travel to these regions of the state to harvest wildlife. In addition to the loss of revenue, the Department would be required to expend hundreds of thousands of dollars in increased surveillance and other management issues associated with this disease. This is not a budgeted item and would result in the loss of many of the existing programs the Department maintains. This rule is supported by the Arizona Department of Agriculture because of concerns that this disease may have the capability to "jump" species and infect domestic livestock. Based upon the currently available research on the disease, species jump is not likely, but one of the problems with the disease is dealing with public perception of a disease that is 100% fatal to animals that develop clinical signs.

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There will be no additional costs to any political subdivision, as enforcement will be done by the Department, and there is no direct impact to employment in the sector directly regulated by the final rule. Given the very small number of individuals that hold special licenses and currently maintain captive non-native cervids, the Department anticipates that very little enforcement or administrative effort will be required by implementation of the rule. There will be positive impacts to the Arizona Departments of Agriculture, Game and Fish, and Health Services as the rule greatly reduces the risk of importing animals that are infected with CWD. Health Services and Agriculture will directly benefit from not having to dedicate staff time to provide information to the public and livestock operators regarding the risk of this disease. The Game and Fish Department will directly benefit as the resources that we are charged to manage will be better protected, and we will not have to expend additional resources responding to the introduction of this disease.

In evaluating the most efficient method to provide protection to the state's valued wildlife resources, the Department examined several options to preclude, to the extent possible, the introduction of CWD to Arizona. One of the options evaluated is to restrict importation of cervids to Arizona unless an animal originates from a herd that has a history of testing for CWD and is found to be disease free for a minimum of 60 months. While this affords a measure of protection to Arizona's wildlife, the Department has concluded that this approach does not provide adequate protection to wildlife or humans. This conclusion is based on the fact that a long incubation period exists for the disease, and the inadvertent introduction of one infected animal into the source herd that is infected with CWD will expose the herd as long as 36 months later. The option of restricting imports from any state or province with animals that test positive for CWD was also evaluated, but again, the Department has concluded that this approach is flawed because there is no live animal test and the chances of an inadvertent introduction of the disease is still possible. It is important to point out that in Wisconsin, the state wildlife management agency has announced plans to eliminate up to 25,000 white-tailed deer to reduce the population density in the area where the disease was detected. This has created an unexpected problem for Wisconsin as the population reduction effort, planned for summer 2002, created tremendous conflict with the public that wanted to recreate in the Wisconsin backcountry but were unwilling to do so when deer were being killed to manage the disease. The loss of summer recreation revenue to the rural communities has been tremendous. The same will likely occur in Arizona if the Department is forced into a summer reduction hunt because of the inadvertent introduction of CWD.

In Colorado, agents of the federal agency, Wildlife Services, were contracted to kill mule deer to aid in management of CWD. Both of these herd reduction actions will result in unplanned density reductions of valued wildlife resources without the typical economic benefits to the state's economy due to hunting-related expenditure of funds. In fact, not only will there be loss of hunting-related revenue, but there may be a loss of revenue because campers, backpackers, anglers, and other summer recreationists avoid areas where herd reductions are occurring. Further, the herd reduction actions have caused considerable public controversy. Animal rights advocates oppose killing large numbers of animals that may not be infected (again, there is no live animal test, so all animals must be killed before testing). Given the great economic and social risk of this disease being spread to Arizona, the rule balances the cost of effective disease management with the cost to small businesses. The rulemaking can therefore be seen as the only economically viable tool to accomplish the goal of protecting both wild and captive cervids from this fatal disease.

CWD was once thought to be a problem for the three states (Colorado, Wyoming, and Nebraska) where the disease is endemic. It is now understood to be an emerging crisis in the wildlife health field and any delay in protecting the wild and game-farmed cervids of the state poses an unacceptable risk to both. It is important to note that there is no live animal test for this disease and, therefore, no way to prevent its import into the state except by precluding importation of live cervids to the state. It is also important to act quickly as one infected animal has the potential to infect an entire herd of game-farmed animals and spread to the wild animals surrounding the area of infection.

After careful evaluation, the Department has determined that the benefits of the rulemaking outweigh the costs.

R12-4-401. Live Wildlife Definitions

R12-4-406. Restricted Live Wildlife

R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife

R12-4-408. Holding wildlife for the Department

R12-4-409. General Provisions and Penalties for Special Licenses

R12-4-412. ~~Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License~~ Repealed

R12-4-413. Private Game Farm License

R12-4-417. Wildlife Holding License

R12-4-420. Zoo License

R12-4-423. Wildlife Rehabilitation License

Notices of Final Rulemaking

Rule changes to R12-4-401, R12-4-406, R12-4-407, R12-4-408, R12-4-409, R12-4-412 (which is being repealed and replaced by provisions in R12-4-430), R12-4-413, R12-4-417, R12-4-420, and R12-4-423 are administrative in nature, made necessary by new Section R12-4-430, which is designed to prevent the introduction of chronic wasting disease to free-ranging or captive wildlife in the state. The only costs of the changes are those associated with the rulemaking process itself. The Department will benefit from consistent implementation of associated rule changes, while the public will benefit from having improved rules that are clear, concise, and understandable. There will not be any added costs to the persons, agencies, or political subdivisions of this state directly affected by the implementation and enforcement of the rulemaking, and there will not be any additional costs or reduction in revenues to businesses resulting from these rule amendments. There is no anticipated effect on the revenues or payroll expenditures of employers in the state as a consequence of the rulemaking. Similarly, no impact to small businesses is anticipated as a result of the rule changes. The Department has determined that the benefits of the rulemaking outweigh any costs.

10. A description of the changes between the final rules, including supplemental notices and final rules (if applicable):

In public hearings on the Department's rules pertaining to CWD, zoo license holders sought the ability to import non-native cervids for the purpose of display to the public. They pointed out that if this rule were passed as written, it would eventually eliminate their ability to use cervids as part of their conservation efforts and public education. Private game farm license holders also requested authorization to transport cervids into the state. After careful consideration, the Department agreed to the request of zoos, but not of private game farmers. Zoo license holders requested the authorization to transport non-native cervids, which are not likely to spread CWD. The Department also strengthened the provisions that a zoo license would have to follow, which provides a higher level of security for the state's wildlife resources. Licensed zoos also maintain an acquisition protocol for new animals that minimizes the risk of importing a CWD positive animal. Zoos are invariably located in urban areas where the escape of an animal to the wild is highly unlikely. Finally, zoos provide the public with conservation education opportunities that include the use of cervids, which is more consistent with the Department's missions. As private game farms could not guarantee these same securities, the Department had no alternative but to deny the request for transportation authorization.

In addition, the following changes have been made to the rules contained in the Notice of Proposed Rulemaking published in 8 A.A.R. 4746, November 15, 2002:

1. An exception to the provisions of R12-4-413(A) was added for Sections R12-4-414, R12-4-415, R12-4-416, and R12-4-419 to clarify that the provisions of the rule only apply to private game farm licensees.
2. The Department has determined that the phrase "or any cervids" is not necessary in R12-4-423(L). This provision would have required a licensed wildlife rehabilitator to send the carcass of any cervid that dies under the licensee's authority to the Department for disposal. It has been determined that this is an unnecessary step to prevent the spread or introduction of chronic wasting disease into Arizona, and the provision has thus been deleted from the rule.
3. For clarification purposes, the definition of native cervid in R12-4-430(A)(2) has been revised to add the phrase "or the genus *Rangifer*, common name reindeer and caribou." Reindeer and caribou are native to North America and this change was necessary to make the definition accurate.
4. R12-4-430(D) has been modified for consistency purposes to add an exception for new subsection (L), which has been added to R12-4-430 to allow a zoo licensee to transport a live cervid, except a native cervid, within Arizona for the purposes of procurement or propagation. This provision was added to the rule as a result of public comment taken on the proposed rulemaking after it was determined by the Department that the provision would not result in an increased risk of the spread or introduction of chronic wasting disease into Arizona.
5. New subsection R12-4-430(L) has been added to allow a zoo licensee to transport a live cervid, except a native cervid, within Arizona for the purposes of procurement or propagation. This provision has been added to the rule as a result of public comment taken on the proposed rulemaking after it was determined by the Department that the provision would not result in an increased risk of the spread or introduction of chronic wasting disease into Arizona.
6. R12-4-430(M) and (N) have been modified to replace the word "imports" with the word "possesses" to more accurately reflect the intent of R12-4-412, which this rulemaking action is repealing. It was the Department's intent to add the provisions of R12-4-412 to new Section R12-4-430 to make the agency's rules more clear, concise and understandable. There was no intent to change the provisions of R12-4-412 with this action, and this change is being made accordingly. The revision to the proposed rule language is being made as a result of public comment taken on the proposed rulemaking.
7. The incorporation by reference contained in R12-4-430(M) has been updated to include the most recent edition of the referenced material.
8. New subsection R12-4-430(O) has been added to update the incorporated by reference material for Brucellosis control and eradication in cervids. This change will ensure that the most current procedures from the U.S. Department of Agriculture for the control and eradication of Brucellosis are contained within the Department's rules.
9. Minor grammatical and stylistic changes requested by G.R.R.C. staff.

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11. A summary of the comments made regarding the rules and the agency response to them:

The Department received one written comment from the Arizona Department of Agriculture, which is included in this rulemaking package. The State Veterinarian comments that the Department should not expand the ban of importation to all species of the family Cervidae, which are designated as restricted live wildlife in R12-4-406(A)(9)(b). The State Veterinarian also comments that the Department should include the provisions in R12-4-112 in another rule if the Department intends to repeal it. Tuberculosis and brucellosis are diseases that remain a threat to both captive and wild Cervidae, and should thus be included in rule. The Department has acknowledged these comments, and has amended the rules to allow importation of non-native cervids and has reiterated the provisions against tuberculosis and brucellosis in R12-4-430.

The Department conducted public meetings in Phoenix, Tucson, Pinetop, and Flagstaff respectively on November 12; November 21; November 25; and November 26, 2002, to discuss proposed changes to the Article 4, Live Wildlife rules. Verbal comments and agency responses are summarized as follows:

Public Comment: It should be more clear whether or not all “captive cervids” must be marked in the emergency rule 429(C), or just “native cervids” in the proposed rule 430(A).

Agency Response: Upon expiration of the emergency rulemaking, the term “captive cervids” and all related requirements will no longer be effective. The public will only have to abide by the marking requirements for “native cervids” under the proposed rulemaking.

Public Comment: In the proposed rule 430, the restrictions on intrastate transport of cervids should be as relaxed as the requirements for interstate transport. The suggested change is to use the same requirements in subsection (K) as in subsection (D).

Agency Response: The Department has amended the rule as such through the Notice of Supplemental Proposed Rulemaking, finding that interstate transport should be regulated more closely as CWD is not present in this state.

Public Comment: Proposed changes for 413(A) could impede field trial training. Dogs are trained with birds purchased from private game farms. Because training exercises “could be perceived as hunting,” they would have to cease.

Agency Response: The Department has amended the rule to accommodate field trial training events through the Notice of Supplemental Proposed Rulemaking. An exception to the provisions of R12-4-413(A) was added for R12-4-414, R-12-4-415, R12-4-416, and R12-4-419 to clarify that the provisions of the rule only apply to private game farm licensees.

Public Comment: The new R12-4-430(K) allows zoos to import cervids from facilities from other states that have CWD certification. It would be preferable to give the same allowance to private game farms.

Agency Response: In public hearings on the Department’s rules pertaining to CWD, zoo license holders sought the ability to import non-native cervids for the purpose of display to the public. They pointed out that if this rule were passed as written, it would eventually eliminate their ability to use cervids as part of their conservation efforts and public education. Private game farm license holders also requested authorization to transport cervids into the state. After careful consideration, the Department agreed to the request of zoos, but not of private game farmers. Zoo license holders requested the authorization to transport non-native cervids, which are not likely to spread CWD. The Department also strengthened the provisions that a zoo license would have to follow, which provides a higher level of security for the state’s wildlife resources. Licensed zoos also maintain an acquisition protocol for new animals that minimizes the risk of importing a CWD positive animal. Zoos are invariably located in urban areas where the escape of an animal to the wild is highly unlikely. Finally, zoos provide the public with conservation education opportunities that include the use of cervids, which is more consistent with the Department’s missions. As private game farms could not guarantee these same securities, the Department had no alternative but to deny the request for transportation authorization.

Public Comment: The Department should intensify USDAA guidelines to increase the 60 month wait for importation to 72 months, rather than initiate total enclosure of cervids through rulemaking.

Agency Response: The Department does not believe that this is a practical solution, because the incubation and manifestation rate of CWD is still unknown. Some animals may remain preclinical until after 72 months.

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Public Comment: The rule amendments should allow zoos to get new breeding stock through means other than artificial insemination, which is against certain religious beliefs. R12-4-430(K) should be changed to allow for transport with states that have not had cases of CWD.

Agency Response: New subsection R12-4-430(L) has been added to allow a zoo licensee to transport a live cervid, except a native cervid, within Arizona for the purposes of procurement or propagation. R12-4-430(D) has been amended for consistency. These provisions will not result in an increased risk of the spread or introduction of chronic wasting disease into Arizona.

Public Comment: R12-4-413 is a violation of civil rights and trade laws. The Department should cease the proposed rulemaking, specifically the changes to R12-4-413.

Agency Response: The Department does not share this opinion as it does not impede authorized activities under a private game farm license.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

13. Incorporations by reference and their location in the rules:

R12-4-430(M) and (N). ~~Reserved~~ Importation, Handling, and Possession of Cervids

M. An individual who possesses a cervid shall comply with all procedures for tuberculosis control and eradication for cervids prescribed in the USDA publication "Bovine Tuberculosis Eradication – Uniform Methods and Rules," USDA APHIS 91-45-005 011, effective January 22, 1999. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P.O. Box 96464, Washington D.C., 20090-6464.

N. An individual who possesses a cervid shall comply with the procedures for the prevention, control, and eradication of Brucellosis in cervids as prescribed in the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P.O. Box 96464, Washington D.C., 20090-6464.

O. An individual who possesses a cervid shall comply with the procedures for the prevention, control, and eradication of Brucellosis in cervids as prescribed in the United States Department of Agriculture publication "Brucellosis Eradication: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-11, effective February 1, 1998. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P.O. Box 96464, Washington D.C., 20090-6464.

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 4. GAME AND FISH COMMISSION

ARTICLE 4. LIVE WILDLIFE

Section

- R12-4-401. Live Wildlife Definitions
- R12-4-406. Restricted Live Wildlife
- R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife
- R12-4-408. Holding ~~wildlife~~ **Wildlife** for the Department
- R12-4-409. General Provisions and Penalties for Special Licenses
- R12-4-412. ~~Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License~~ **Repealed**
- R12-4-413. Private Game Farm License
- R12-4-417. Wildlife Holding License
- R12-4-420. Zoo License

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- R12-4-423. Wildlife Rehabilitation License
R12-4-430. Importation, Handling, and Possession of Cervids

ARTICLE 4. LIVE WILDLIFE

R12-4-401. Live Wildlife Definitions

In addition to definitions given in A.R.S. § 17-101, and for the purposes of Article 4, the following definitions apply.

1. "Aquarium trade" means the commercial industry lawfully trading in aquatic wildlife ~~which that~~ is not restricted live wildlife, and the customers of that industry, when all aquatic wildlife is held for pet or ornamental uses only, in aquaria or in enclosed ponds with no opportunity for ingress or egress.
2. "Captive wildlife" means live wildlife physically restrained, confined, or impaired so that it is prevented from unobstructed return to or movement in the wild.
3. "Cervid" means a mammal classified as a Cervidae or member of the deer family found anywhere in the world, as defined in the taxonomic classification from Volumes I and II of Walker's Mammals of the World. A copy is available for inspection at any Department office.
- ~~3-4.~~ "Circus" means a scheduled event where a variety of entertainment is the principal business, primary purpose and attraction. "Circus" does not include animal displays or exhibits held as an attraction for a secondary commercial endeavor.
- ~~4-5.~~ "Collect" means to take under the provisions of a Scientific Collecting Permit.
- ~~5-6.~~ "Educational display" means to display captive live wildlife to increase public understanding of wildlife biology, conservation, and management without requiring payment from the audience.
- ~~6-7.~~ "Endangered or threatened" means wildlife listed in 50 CFR 17.11, revised as of April 10, 1987, not including any later amendments or editions of this list, which is incorporated by reference herein. A copy of the list is on file with the Secretary of State and is available for inspection at any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
- ~~7-8.~~ "Evidence of lawful possession" means any license or permit allowing possession of the specified live wildlife, or other documentation establishing lawful possession, including but not limited to: a statement of nonrequirement for a license or permit for the specified live wildlife, granted by the country or state of origin.
- ~~8-9.~~ "Exhibit" means to display captive live wildlife in public, or to allow photography of captive live wildlife, for any commercial purpose.
- ~~9-10.~~ "Fish farm" means a commercial operation designed and operated for propagating, rearing, or selling aquatic wildlife for any purpose except the aquarium trade.
- ~~10-11.~~ "Live baitfish" means any species of live freshwater fish designated by Commission order as lawful for use in taking aquatic wildlife ~~pursuant to~~ under R12-4-313.
- ~~11-12.~~ "Live bait" means live, aquatic wildlife used or intended for use in taking aquatic wildlife.
- ~~12-13.~~ "Propagate" means the generation of offspring from captive wildlife.
- ~~13-14.~~ "Rehabilitated wildlife" means injured, orphaned, sick, or otherwise debilitated wildlife ~~which that~~ is provided care to restore it to a healthy condition suitable for release to the wild or for lawful captive use.
- ~~14-15.~~ "Restricted live wildlife" means ~~that~~ wildlife ~~which that~~ the Commission has been determined by the Commission to be determined is an actual or potentially significant threat to indigenous wildlife by competition, disease or parasites, habitat degradation, predation, or impact on population management; or an actual or potentially significant threat to public safety by disease, physical threat, property damage, or nuisance. ~~"Restricted live wildlife" is listed in R12-4-406 and a special license or an exemption pursuant to Article 4, or compliance with R12-4-404 in the case of wildlife taken alive from the wild, is required in order to possess such wildlife or engage in any activity prohibited by A.R.S. § 17-306 or R12-4-402.~~
- ~~15-16.~~ "Shooting preserve" means any operation where live wildlife is released for the purpose of ~~being hunted~~ hunting.
- ~~16-17.~~ "Special license" means any permit or license issued ~~pursuant to~~ under 12 A.A.C. 4, Article 4, authorizing specific activities normally prohibited by A.R.S. § 17-306 and R12-4-402.
- ~~17-18.~~ "Stock" and "stocking" mean to release live aquatic wildlife into public or private waters other than the waters where taken.
- ~~18-19.~~ "Threatened native wildlife" means any species listed in "Threatened Native Wildlife in Arizona", published by the Arizona Game and Fish Department, ~~revised 1988, not including any later amendment or editions of this list, which is incorporated by reference herein.~~ A copy of the list is on file with the Office of the Secretary of State and is available from any Department office.

R12-4-406. Restricted Live Wildlife

- A.** With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, a special license or an exemption under Article 4 is required to possess restricted live wildlife or to engage in any activity prohibited by A.R.S. § 17-306 or R12-4-402.

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~~A.B.~~ Unless specified otherwise, mammals listed below are “restricted live wildlife” as defined in R12-4-401. The taxonomic classification from Volumes I and II of Walker’s Mammals of the World, Fifth Edition, 1991, and not including any later edition, is incorporated by reference and is the authority in the following designations; a A copy is on file with the Office of the Secretary of State and is available for inspection at any Department office.

1. All species of the genus *Didelphis*. Common name: American opossums.
2. All species of the order Insectivora. Common names: Insectivores or shrews and moles.
3. All species of the order Chiroptera. Common name: bats.
4. All species of the family *Pongidae* of the order Primates. Common names: orangutans, chimpanzees, gorillas.
5. All species of the order Edentata. Common names: edentates; or sloths, anteaters, and armadillos.
6. All species of the order Lagomorpha. Common names: pikas, rabbits, hares. Genus *Oryctolagus*, containing domestic rabbits, is not wildlife.
7. All species of the following families of the order Rodentia. Common name: rodents.
 - a. The family Sciuridae. Common names: squirrels, chipmunks, marmots, woodchucks, and prairie dogs.
 - b. The family Geomyidae. Common name: pocket gophers.
 - c. The family Castoridae. Common name: beavers.
 - d. The family Erethizontidae. Common name: New World porcupines.
 - e. The family Capromyidae. Common names: hutias, coypus, or nutrias.
8. All species of the order Carnivora. Common name: carnivores. *Canis familiaris*, domestic dogs; *Felis catus*, domestic cats; and *Mustela putorius furo*, domestic ferrets, are not wildlife.
9. All species of the following families of the order Artiodactyla. Common name: even-toed ungulates.
 - a. The family Tayassuidae. Common name: peccaries.
 - b. ~~The following genera of family Cervidae:~~ Common name: cervid or deer family (including deer, elk, moose, and red deer).
 - i. ~~The genus *Alees*. Common name: moose.~~
 - ii. ~~The genus *Odocoileus*. Common name: white-tailed and mule deer.~~
 - iii. ~~The genus *Cervus*. Common name: red deer and wapiti, except that the species *Cervus nippon*, Nippon deer, is not restricted.~~
 - c. The family Antilocapridae. Common name: pronghorn.
 - d. The family Bovidae. Common names: cattle, buffalo, bison, oxen, duikers, antelopes, gazelles, goats, and sheep, except that the following are not restricted:
 - i. The genus *Bubalus*. Common name: water buffalo.
 - ii. The genus *Bison*. Common name: bison; American bison or buffalo.
 - iii. *Capra hircus*, domestic goats; *Ovis aries*, domestic sheep; and *Bos taurus*, domestic cattle, are not wildlife.

~~B.C.~~ Birds listed below are “restricted live wildlife” as defined in R12-4-401.

1. The following species within the family Phasianidae. Common names: partridges, grouse, turkeys, quail, and pheasants.
 - a. *Alectoris chukar*. Common name: chukar.
 - b. *Callipepla californica*. Common name: California or valley quail.
 - c. *Callipepla gambelii*. Common name: Gambel’s quail.
 - d. *Callipepla squamata*. Common name: scaled quail.
 - e. *Colinus virginianus*. Common name: northern bobwhite. Restricted only in Units 34A, 36A, 36B, and 36C as prescribed in R12-4-108.
 - f. *Cyrtonyx montezumae*. Common name: Montezuma or Mearn’s quail.
 - g. *Dendragapus obscurus*. Common name: blue grouse.
 - h. *Phasianus colchicus*. Common names: ringneck and whitewing pheasants.
2. The species *Rhynchopsitta pachyrhyncha*. Common name: thick-billed parrot.

~~C.D.~~ Reptiles listed below are “restricted live wildlife” as defined in R12-4-401.

1. All species of the order Crocodylia. Common names: gavials, caimans, crocodiles, and alligators.
2. The following species of the order Testudines. Common names: turtles and tortoises.
 - a. All species of the family Chelydridae. Common name: snapping turtles.
 - b. All species of the genera *Gopherus* and *Xerobates* of the family Testudinidae. Common name: gopher tortoises, including the desert tortoise.
3. All species of the following families or genera of the order Squamata.
 - a. The family Helodermatidae. Common names: Gila monster and Mexican beaded lizard.
 - b. The family Elapidae. Common names: cobras, mambas, coral snakes, kraits, and Australian elapids.
 - c. The family Hydrophiidae. Common name: sea snakes.
 - d. The family Viperidae. Common names: true vipers and pit vipers, including rattlesnakes.
 - e. The family Atractaspididae. Common name: burrowing asps.
 - f. The following species and genera of the family Colubridae:

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- i. *Dispholidus typus*. Common name: boomslang.
- ii. *Thelotornis kirtlandii*. Common name: bird snake or twig snake.
- iii. *Rhabdophis*. Common names: keelbacks.

~~D.E.~~ Amphibians listed below are “restricted live wildlife” as defined in R12-4-401. The following species within the order

Anura, ~~Common common~~ names: frogs and toads:-

- 1. All species of the genus *Xenopus*. Common name: clawed frogs.
- 2. The species *Bufo horribilis*, *Bufo marinus*, *Bufo paracnemis*. Common names: giant or marine toads.

~~E.F.~~ Fish listed below are “restricted live wildlife” as defined in R12-4-401.

- 1. American grayling, the species *Thymallus arctius*.
- 2. Bass, all species of the family Serranidae.
- 3. Bighead carp, the species *Aristichthys nobilis*.
- 4. Bony tongue, the species *Arapaima gigas*.
- 5. Bowfin, the species *Amia calva*.
- 6. Catfish, all species of the family Ictaluridae.
- 7. Crucian carp, the species *Carassius carassius*.
- 8. Electric catfish, the species *Malapterurus electricus*.
- 9. Electric eel, the species *Electrophorus electricus*.
- 10. European whitefish or ide, the species *Leuciscus idus* and *Idus idus*.
- 11. Freshwater drum, the species *Aplodinotus grunniens*.
- 12. Freshwater stingray, all species of the family Potamotrygonidae.
- 13. Gars, all species of the family Lepisosteidae.
- 14. Goldeye, all species of the family Hiodontidae.
- 15. Herring, all species of the family Clupeidae.
- 16. Indian carp, all of the species *Catla catla*, *Cirrhina mrigala*, and *Labeo rohita*.
- 17. Lampreys, all species of the family Petromyzontidae.
- 18. Mooneye, all species of the family Hiodontidae.
- 19. Nile perch, all species of the genus *Lates*.
- 20. Pike, all species of the family Esocidae.
- 21. Pike topminnow, the species *Belonesox belizanus*.
- 22. Piranha, all species of the genera *Serrasalmus*, *Serrasalmo*, *Phylocentrus*, *Teddyella*, *Rooseveltiella*, and *Pygopristis*.
- 23. Shad, all species of the family Clupeidae except threadfin shad, species *Dorosoma petenense*.
- 24. Sharks, all species, both marine and freshwater, of the orders Hexanchiformes, Heterodontiformes, Squaliformes, Pristiophoriformes, Squatiniformes, Orectolobiformes, Lamniformes, and Carcharhiniformes.
- 25. Silver carp, the species *Hypophthalmichthys molitrix*.
- 26. Snakehead, all species of the family Ophicephalidae.
- 27. South American parasitic catfish, all species of the family Trichomycteridae and Cetopsidae.
- 28. Sunfish, all species of the family Centrarchidae.
- 29. Tetras, all species of the genus *Astyanax*.
- 30. Tiger fish, the species *Hoplias malabaricus*.
- 31. Trout, all species of the family Salmonidae.
- 32. White amur, the species *Ctenopharyngodon idellus*.
- 33. Walking catfish, all species of the family Clariidae.
- 34. Walleye, the species *Stizostedion vitreum*.
- 35. White perch, the species *Morone americanus*.
- 36. Yellow perch, the species *Perca flavescens*.
- 37. Rudd, the species *Scardinius erythrophthalmus*.

~~F.G.~~ Crustaceans listed below are “restricted live wildlife” as defined in R12-4-401.

- 1. Asiatic mitten crab, the species *Eriocheir sinensis*.
- 2. Australian crayfish and all freshwater species within the families Astacidae, Cambaridae, and Parastacidae.

~~G.H.~~ Mollusks listed below are “restricted live wildlife” as defined in R12-4-401. Zebra mussel, the species *Dreissena polymorpha*.

~~H.~~ This rule is effective May 25, 2001.

R12-4-407. Exemptions from Special License Requirements for Restricted Live Wildlife

A. The Commission waives the requirement that a person obtain a special license for lawfully possessed restricted live wildlife as follows:

- 1. Desert tortoises *Xerobates (Gopherus) agassizii* possessed without a special license before April 28, 1989, may be possessed, transported, and given away. Desert tortoises possessed under this Section may be propagated, and progeny may be held in captivity for 24 months from the date of hatching, if they are disposed of by gift or as directed by the Department. The person receiving a desert tortoise given away under this Section is also exempt from special license requirements.

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2. A licensed veterinarian may possess the wildlife while furnishing medical care and may release rehabilitated wildlife as directed by the Department, if:
 - a. Records of restricted live wildlife that are kept under the requirements of the Veterinary Medical Examining Board are subject to inspection by Department game rangers; and
 - b. The Commission or Department assumes no financial responsibility for any care provided, except care authorized by the Department.
 3. Wildlife may be imported, possessed, and exported if the wildlife is transported through the state within 72 continuous hours, the transportation is accomplished by one person without transfer or sale, and the wildlife is accompanied by evidence of lawful possession as defined in R12-4-401.
 4. With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, Wildlife wildlife may be imported, transported, possessed, exhibited, and exported for a government-authorized state or county fair, or by a circus, or imported, possessed, transported and exported for the purpose of filming for television, movies, or commercials, if the wildlife:
 - a. Is accompanied by evidence of lawful possession, as defined in R12-4-401;
 - b. Is not in the state for more than 60 consecutive days;
 - c. Is maintained under complete control and prevented from coming into contact with the public.
 5. With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, Wildlife wildlife may be imported, transported, possessed, and displayed for advertising purposes other than filming, and exported, if the wildlife:
 - a. Is accompanied by evidence of lawful possession, as defined in R12-4-401;
 - b. Is not in the state for more than 10 consecutive days, and the public is not charged a fee to view the wildlife;
 - c. Is maintained under complete control and prevented from coming into contact with the public.
 6. Game fish may be imported and transported to restaurants or markets licensed to sell food to the public, if the game fish being sold are killed before transport from the restaurant or market. While in the possession of the restaurant or market, the fish may be displayed for sale, offered for sale, and sold.
 7. Wildlife is taken alive under and is possessed in compliance with R12-4-404 or R12-4-427.
 8. An Arizona falconer license is not required for a visiting nonresident falconer hunting on a valid Arizona hunting license if the falconer is licensed in the falconer's state of residency.
 9. Wildlife may be imported, purchased, possessed, transported, traded, given away, propagated, killed, and exported by medical or scientific research facilities registered by the United States Department of Agriculture under 9 CFR Subchapter A, Animal Welfare, revised January 2000, not including any later amendments or editions, which is incorporated by reference in this Section. A copy is on file with the Secretary of State and is available for inspection at any Department office, or it may be ordered from the United States Department of Agriculture, Marketing and Regulatory Programs, Animal and Plant Health Inspection Service, Animal Care, Western Region, 9580 Micron Avenue Suite J, Sacramento, CA 95827-2623, 916-857-6205.
 10. Crayfish may be imported and transported to restaurants or markets licensed to sell food to the public, if the crayfish being sold are killed before transport from the restaurant or market. While in the possession of the restaurant or market, the live crayfish may be displayed for sale, offered for sale, and sold.
 11. Freshwater crayfish (families Astacidae, Cambaridae, and Parastacidae) possessed before January 1, 2001, may be possessed alive, propagated, and their progeny held without special license. Live freshwater crayfish may not be transported, sold, offered for sale, given away, or released, except under this Section and R12-4-316.
- B.** An exemption granted by this Section is not valid for any wildlife protected by federal law or rule unless supported by federal permission or documentation rendering the exemption lawful.
- ~~C.~~ ~~This rule is effective May 25, 2001.~~

R12-4-408. Holding ~~wildlife~~ Wildlife for the Department

- ~~A.~~ A ~~game ranger~~ Game Ranger may authorize an individual to possess and transport live wildlife on behalf of the Department ~~when~~ if the wildlife is needed as evidence in a pending civil or criminal proceeding.
- ~~B.~~ ~~A~~ With the exception of live cervids, a Department employee ~~may~~ has the authority to authorize an individual to possess and transport captive live wildlife on a temporary basis not to exceed 72 hours.
- ~~C.~~ The Director has the authority to authorize an individual to hold a live cervid for the Department.

R12-4-409. General Provisions and Penalties for Special Licenses

- A.** The Department shall issue special licenses as defined in R12-4-401, if application is made and criteria are met as prescribed in the rule governing the specific special license. The Department shall either grant or deny a special license within the administrative completeness review time-frame and the overall time-frame listed for the special license in R12-4-106 and in a manner consistent with A.R.S. Title 41, Chapter 6, Article 7.1. During the administrative completeness review time-frame, the Department may return to the applicant, without denial, any incomplete application that is lacking information required by the rule governing the specific special license. Each returned application shall be accompanied by written notice stating what information the applicant failed to provide. The administrative completeness review time-

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frame and the overall time-frame listed for the special license in R12-4-106 are suspended from the date on the notice until the date that the Department receives the missing information from the applicant. During the substantive review time-frame, the Department may make one comprehensive written request for additional information. The Department and the applicant may mutually agree in writing to allow the agency to submit supplemental requests for additional information. The substantive review time-frame and the overall time-frame listed for the special license in R12-4-106 are suspended from the date on the request until the date that the Department receives the additional information from the applicant. A special license is not valid for any wildlife protected by federal law or regulation unless supported by federally-issued documentation rendering the licensed activity lawful.

- B. All special licenses expire on December 31 for the year issued unless otherwise specified in the governing rule. If application for a new special license is not made by the expiration date, live wildlife possessed under the expired license is unlawfully possessed and is subject to seizure by the Department. If application for a new special license is made on or before the expiration date, the existing license remains valid until the Department makes a final determination to grant or deny the special license, and, in the event that the application is denied, until the last day for seeking a review of the final determination.
- C. The Department shall deny a special license if the applicant knowingly provides false information upon application. Any special license so obtained is void and of no effect from the date of issuance.
- D. The Department shall provide written notice to an applicant whose application is denied stating the reason for denial with references to the statutes or rules on which the denial is based. The applicant may appeal the denial to the Commission as prescribed in A.R.S. §§ 41-1092.02 through 41-1092.12.
- E. Special license holders or licensees shall keep records and submit reports as required by the rule governing their special license. The licensee shall exhibit the records to any Department game ranger upon reasonable request.
- F. Facilities of special license holders are subject to reasonable inspection by a game ranger for compliance with any requirements imposed by this Article. A routine inspection is not reasonable if the game ranger has inspected another facility holding wildlife of the same class within the previous 72 hours and the game ranger has had contact with the wildlife or there is reason to believe disease may have been present at the other facility.
- G. If a disease, ~~as determined by a person with relevant expertise~~, or other emergency condition exists that poses an immediate threat to the welfare of wildlife, including the wildlife held under a special license, or the public, as determined by a person with relevant expertise, the Department shall immediately order a cessation of operation under the special license and, if necessary, humane disposition or quarantine of any contaminated or threatened wildlife. The licensee shall perform disease testing, submit biological samples to the Department or its designee, quarantine the wildlife, or destroy the wildlife as directed by the Department. The licensee shall ensure that any disease giving rise to an emergency condition under this subsection is diagnosed by a person or persons professionally certified to make the diagnosis. Once operation has ceased and an emergency no longer exists, subsection (H) applies.
- H. If a condition exists, including disease or any violation of this Article, that poses a threat to the welfare of wildlife, including the wildlife held, or the public, but the threat does not constitute an emergency, the Department shall provide the licensee a written notice of the condition, by certified mail or personal service, specifying a reasonable time for the licensee to cure the noticed condition. Failure of the licensee to cure the noticed condition within the time specified by the Department is a violation under subsection (I). If a licensee receives three notices under this subsection for the same condition within a two-year period, the Department shall treat the third notice as a failure to cure.
- I. The Department shall take any of the following actions against a person for violation of any provision of this rule; the rule governing a specific special license; A.R.S. § 13-2908 relating to criminal nuisance; A.R.S. § 13-2910; for a conviction of any other criminal offense involving cruelty to animals; for refusal to permit reasonable inspection of facilities, wildlife, or required records; or for failure to keep required records or submit required reports to the Department:
 1. Filing of criminal charges.
 2. Suspension of authority of a licensee or any agent of the licensee to hold wildlife under special license for the remainder of the validity of the license period.
 3. Seizure of any wildlife held under the special license, and its humane disposition except that such wildlife shall not be killed pending appeal by the licensee.
 4. Denial of subsequent application for a special license for a period not to exceed five years.
- J. A person may appeal Department actions identified in subsections (I)(2), (I)(3), and (I)(4) to the Commission as prescribed in A.R.S. §§ 41-1092.01 through 41-1092.12.
- ~~K. This rule is effective July 1, 2001.~~

R12-4-412. Tuberculosis and Brucellosis Procedures for Cervidae Possessed by Special License Repealed

- ~~A. Procedures for tuberculosis control and eradication for cervidae listed as restricted live wildlife in R12-4-406 shall be as prescribed in the USDA publication "Tuberculosis Eradication in Cervidae -- Uniform Methods and Rules," U.S.D.A., A.P.H.I.S 91-45-005, effective May 15, 1994, including 1995 amendments. This material is incorporated by reference, does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A. A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P.O. Box 96464, Washington, D.C. 20090-6464.~~

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- B.** Procedures for the prevention, control, and eradication of Brucellosis in Cervidae listed as restricted live wildlife in R12-4-406 shall be as prescribed in the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules," U.S.D.A., A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999. This material is incorporated by reference, does not include any later amendments or editions of incorporated matter, and is on file with the Secretary of State. In addition, a copy may be ordered from the U.S.D.A., A.P.H.I.S. Veterinary Services, Cattle Diseases and Surveillance Staff, P.O. Box 96464, Washington, D.C. 20090-6464.

R12-4-413. Private Game Farm License

- A.** A private game farm license allows any or all of the following: ~~offer~~ offering for sale, trade, rent or lease, giving away, purchase, display for sale, import, possession, propagation, rearing, transport and export of the live wildlife specified on the license. Private game farm wildlife may be killed or slaughtered but ~~shall not be hunted~~ a person shall not kill the wildlife by hunting or in a manner that could be perceived as hunting or recreational sport harvest. Private game farm wildlife shall not be killed by a person who pays a fee to the owner of the game farm for killing the wildlife, except as allowed under R12-4-414, R12-4-415, R12-4-416, and R12-4-419.
- B.** The following criteria are prerequisites for approval of a private game farm license:
1. Escape of the proposed species will not create a threat to indigenous wildlife.
 2. An applicant shall provide, with the application required by subsection (C), a detailed diagram of the facilities where wildlife is to be held and a detailed description of the procedures to be employed by the applicant in meeting the requirements of R12-4-428.
 3. The Department may issue a license for only the following pen-reared game birds:
 - a. *Alectoris chukar*, chukar;
 - b. *Callipepla californica*, California or valley quail;
 - c. *Callipepla gambelii*, Gambel's quail;
 - d. *Callipepla squamata*, scaled quail;
 - e. *Colinus virginianus*, northern bobwhite. License is required only Units 34A, 36A, 36B, and 36C, as prescribed in R12-4-108;
 - f. *Cyrtonyx montezumae*, Montezuma or Mearn's quail;
 - g. *Dendragapus obscurus*, blue grouse; and
 - h. *Phasianus colchicus*, ringneck and whitewing pheasant.
 4. The Department may issue a license for fox or mink if a prior inspection of the holding facilities or the plans for those facilities by the Department proves escape is unlikely.
 5. With the exception of live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430. ~~The~~ the Department may issue a license for other mammals listed as restricted live wildlife only if:
 - a. The same species does not exist in the wild in Arizona;
 - b. The wildlife is disposed of only by export from Arizona, to game farms licensed under this rule, to zoos licensed under R12-4-420, or to medical or scientific research facilities with an exemption under R12-4-407;
 - c. The application required in subsection (C) is accompanied by proof of current licensing by the United States Department of Agriculture under 9 CFR Subchapter A., Animal Welfare; and
 - d. The application required in subsection (C) is accompanied by a typed proposal explaining the species to be possessed, the purpose of possession, the purpose of propagation if applicable, the planned disposition of wildlife including progeny, and how the licensee will prevent escape, threat to native wildlife, and threat to public safety.
 6. The Department may issue a license for any other restricted live wildlife not addressed in subsections (B)(3), (B)(4), or (B)(5), only if the wildlife was held under a private game farm license issued before April 28, 1989.
 7. An applicant shall submit a separate application for each location.
- C.** An applicant shall use an application form available from any Department office. The applicant shall provide the following information on the form:
1. Name, address, and telephone number of the applicant;
 2. Location of game farm, including street address or legal description;
 3. Species and number of live wildlife to be obtained or, if application is for renewal, species and number of live wildlife that are currently in captivity; and
 4. Signature of applicant.
- D.** A licensee shall ensure that each shipment of live wildlife imported into the state is accompanied by a certificate of health issued by a licensed veterinarian.
- E.** A licensee shall maintain records for three years that include the number, species, source, and date of wildlife obtained or raised and the number, species, and date of disposition and manner of disposition of all wildlife, including the names of persons to whom wildlife is sold, bartered or given.
- F.** A licensee shall provide a receipt to each person transporting dead wildlife from the site of the game farm. The receipt shall include the date of purchase, barter, or gift; the name of the game farm; and the number, by species, of transported wildlife.

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- G. A licensee shall ensure that shipments of wildlife made by the game farm are accompanied by documentation showing the name of the game farm, date shipped, the number of species and the number of individuals per species of wildlife in the shipment, the name of the person or common carrier transporting the shipment, and the name of the person who will receive the shipment.
- H. A game farm licensee is subject to R12-4-409, ~~and R12-4-428, and R12-4-430.~~
- ~~I. This rule is effective July 1, 2001.~~

R12-4-417. Wildlife Holding License

- A. ~~With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430, The~~ the Department shall issue wildlife holding licenses to qualified individuals for the purposes provided in this Section. The wildlife holding license authorizes the person holding the license to engage in specific activities with the specific live wildlife listed on the license. The activities shall be listed on the license to be authorized and may include but not be limited to any of the following: possession, transportation, importation, educational display, exhibit, purchase, propagation, export, give away, or kill. The Department's evaluation of the applicant's proposal and qualifications and the purpose of the license will determine if the Department will issue or deny the permit and the activities the license authorizes.
- B. The Department shall not issue a license to any applicant whose privilege to take or possess wildlife is under current suspension or revocation by the government of any state or the United States.
- C. The Department shall issue a wildlife holding license only for the primary purposes following, when the purpose is in the best interest of the wildlife or the species, will not adversely impact other affected wildlife in Arizona, and may be served without posing a threat to wildlife or public safety:
 - 1. Wildlife management: gathering information valuable to maintenance of wild populations;
 - 2. Education;
 - 3. The advancement of science, or promotion of the public health or welfare;
 - 4. When humane treatment by a person is necessary to safeguard and protect the interests of an animal unable to meet its own needs in the wild, when it has been abandoned, or permanently disabled, or is no longer useful for any previously-existing licensed purpose.
- D. The Department shall issue a wildlife holding license for the sole purpose of exhibiting live wildlife already possessed under the authority of R12-4-404 or already possessed under R12-4-417, when the wildlife may be exhibited without posing a threat to wildlife or the public and will not adversely impact other affected wildlife in Arizona.
- E. Applicants for a wildlife holding license shall obtain from and submit to the Department a form providing the following information:
 - 1. The applicant's name, mailing address, and telephone number.
 - 2. If applicable, the name, address, and telephone number of the educational, scientific, or other institutional affiliation of the applicant.
 - 3. The species, or higher taxa, if appropriate, of wildlife proposed for an allowable activity.
 - 4. The applicant's signature.
- F. Applicants for a wildlife holding license shall also submit the following with their application form:
 - 1. If the wildlife is currently in possession, submit evidence of lawful possession as defined in R12-4-401. If the wildlife is not yet in possession, submit proof of application for evidence of lawful possession. If the application is for exhibit of wildlife possessed under the authority of R12-4-404, provide an affidavit that the wildlife was lawfully taken under authority of a hunting or fishing license in accordance with Commission order or is the progeny of wildlife lawfully taken.
 - 2. The street address or legal description of the location where the wildlife is to be held and a detailed diagram of the facilities where the wildlife is to be held.
 - 3. A detailed description of the procedures that will be used to meet the requirements of R12-4-428.
 - 4. A statement of the applicant's experience in handling and providing care for the wildlife to be held or of other experience that may be relevant to handling or providing care for wildlife.
 - 5. The dates proposed to begin and end holding the wildlife.
 - 6. A statement of the planned disposition and method of disposition of the wildlife at the conclusion of the proposed activities.
 - 7. If the purpose of the license is for wildlife management, education, the advancement of science, or the promotion of the public health or welfare, submit a detailed description of the proposed management, educational, or scientific activity.
 - 8. If the purpose of the license is for humane treatment, submit a written statement explaining why the wildlife is unable to meet its own needs in the wild, whether it has been abandoned, or permanently disabled, or is no longer useful for any previously existing licensed purpose. The statement shall also specify where the wildlife is currently possessed and who possesses it.
 - 9. If the purpose of the license is to exhibit live wildlife already possessed under the authority of R12-4-404 or already possessed under R12-4-417, submit a detailed description of the proposed exhibit activity.

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- G. The Department may require that wildlife used for lawful activities under the authority of the wildlife holding license be permanently marked for identification purposes, when the Department determines this is necessary for the best interest of the public and the wildlife. If this is a requirement, it will be specified on the license.
- H. The licensee shall ensure that a copy of the license accompanies any shipment of wildlife made under the authority of the license.
- I. The licensee shall annually obtain from and submit to the Department a report form providing the following information within 30 days after the license expires:
 - 1. The licensee's name, address, and phone number;
 - 2. A listing of each animal held during the year, by species, including the source and date of acquisition and the place and date of disposition for each animal.
- J. The licensee shall comply with R12-4-409, ~~and R12-4-428, and R12-4-430.~~
- K. Wildlife holding licenses expire on December 31 of the year of issuance, or, if the licensee is a representative of an institution, organization, or agency, upon termination of affiliation with that entity, whichever comes first.
- ~~L. This rule is effective January 1, 2000.~~

R12-4-420. Zoo License

- A. ~~With the exception of all live cervids, which shall not be imported, transported, or possessed except as allowed under R12-4-430.~~ A zoo license allows all of the following: exhibit, educational display, import, purchase, export, possession, propagation, euthanization, transport, giving away, offering for sale, and sale or trade of restricted live wildlife and other Arizona wildlife legally possessed, subject to the following restrictions:
 - 1. A licensee shall hold all wildlife possessed in the facilities specified on the license except when the wildlife is transported to or from temporary exhibits. Temporary exhibits shall not exceed 20 consecutive days at any one location.
 - 2. A licensee shall only dispose of restricted live wildlife within Arizona to another zoo licensed under this Section, to a game farm licensed under R12-4-413, to a medical or scientific research facility exempted under R12-4-407, or as directed by the Department.
 - 3. A licensee shall not accept any wildlife donations, or purchase or otherwise obtain wildlife without accompanying evidence of lawful possession.
 - 4. A licensee may dispose of all wildlife obtained under a scientific collecting permit or wildlife that has been loaned to the zoo by the Department only as directed by the Department.
- B. The following criteria are prerequisites for approval of a zoo license:
 - 1. The Department shall ensure that the operation meets the definition of "zoo" at A.R.S. § 17-101(A)(23).
 - 2. An applicant shall submit with the application proof of current licensing by the United States Department of Agriculture under 9 CFR Subchapter A, Animal Welfare.
 - 3. The Department shall ensure that the issuance of a license is for a purpose in the best interest of the wildlife or species to be held, does not adversely impact upon any other wildlife in Arizona, and does not pose a threat to wildlife or public safety.
- C. An applicant shall use a form available from any Department office. The applicant shall provide the following information on the form:
 - 1. Name and location of the zoo;
 - 2. Mailing address and telephone number for the zoo;
 - 3. Signature of owner or person responsible for the zoo; and
 - 4. If the application is not for renewal of a previously granted license, a list, by species, of restricted live wildlife and other legally possessed Arizona wildlife to be held and the number of each species. The list shall include scientific and common names for restricted live wildlife as specified in R12-4-406.
- D. A licensee shall maintain a record of each animal obtained under subsection (A)(4) for three years following the date of disposition. The record shall include the species, date received, any Department approval authorizing acquisition, and the date and method of disposition.
- E. A licensee under this Section is subject to R12-4-409 ~~and R12-4-430.~~
- ~~F. This rule is effective July 1, 2001.~~

R12-4-423. Wildlife Rehabilitation License

- A. For the purposes of this Section, the following definitions apply:
 - 1. "Agent" means a person designated on a license who assists a licensee in performing rehabilitative functions, including transport or release of wildlife, provided there is an employment or direct supervisory relationship between the licensee and the person.
 - 2. "Assistant" means a person not designated as an agent who assists a licensee under direct supervision at the premises described on the license.
 - 3. "License" means a form issued by the Department, and an application form submitted by an applicant and approved by the Department, including any stipulations made upon approval.

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4. "Migratory birds" means all species listed at 50 CFR 10.13, revised October 1 1999, not including any later amendments or editions, which is incorporated by reference in this Section. A copy of the incorporated matter is on file with the Secretary of State and available for inspection at any Department office, or it may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.
5. "Taxa" means groups of animals within specific classes of wildlife occurring in Arizona with common characteristics that establish relatively similar requirements for habitat, food, and other ecological or behavioral factors pertinent to establishing standards of housing, care, or rehabilitation as follows:
 - a. Amphibians: all amphibians.
 - b. Reptiles: all reptiles.
 - c. Birds:
 - i. Non-passerines, birds in any Order other than those named below;
 - ii. Raptors, birds in the Orders Falconiformes or Strigiformes;
 - iii. Quail, birds in the Order Galliformes;
 - iv. Doves, birds in the Order Columbiformes;
 - v. Hummingbirds, birds in the Order Trochiliformes; and
 - vi. Passerines, birds in the Order Passeriformes.
 - d. Mammals:
 - i. Nongame mammals;
 - ii. Bats: all bats;
 - iii. Big game mammals other than cervids: bighorn sheep, bison, black bear, ~~deer, elk~~, javelina, mountain lion, and pronghorn; and
 - iv. Carnivores: bobcat, coati, coyote, foxes, ringtail, skunks, and weasel.
 - e. All other systems of classification or nomenclature notwithstanding, endangered or threatened species and threatened native wildlife, as defined in R12-4-401, and golden eagles, Gila monsters, twin-spotted rattlesnakes, and banded rock rattlesnakes are not included in the taxa defined above and shall not be possessed under license unless specifically authorized on that license.
- B.** A wildlife rehabilitation license allows the live capture; transport; possession; rehabilitation; transfer to a practicing veterinarian for treatment or euthanasia or to another rehabilitator licensed for the wildlife; or release and euthanasia of the injured, diseased, disabled, orphaned, or otherwise debilitated live wildlife specified on the license. The license may also allow the wildlife to be exported, transferred to a licensed zoo or disposed of as directed by the Department. A person shall not educationally display or exhibit wildlife held under a wildlife rehabilitation license. The authorized activities are subject to Department evaluation of, and stipulations to, applications submitted in compliance with subsections (D) or (E). The Department may deny a license or limit a license based upon the training and experience of the applicant. The Department shall issue wildlife rehabilitation licenses subject to the following conditions:
 1. The Department shall issue a wildlife rehabilitation license only for the purpose of restoring wildlife to the wild through rehabilitative activities. All wildlife held under the license remains the property of the state and shall be returned to the Department upon request;
 2. The Department shall issue a wildlife rehabilitation license to provide a public service. The names and telephone numbers of all licensees are subject to public disclosure by the Department, and a licensee shall not charge a fee or other compensation for the wildlife rehabilitation functions performed;
 3. The Department shall issue a wildlife rehabilitation license to an individual who is solely responsible for all expenses incurred and all actions taken under the license, including all actions and omissions of all agents and assistants; and
 4. The Department shall issue a wildlife rehabilitation license that is valid only for the premises described on the license.
- C.** The following criteria are prerequisites for approval of a wildlife rehabilitation license:
 1. The privilege of the applicant or any agent to take or possess wildlife is not under current suspension or revocation by the government of any state or the United States.
 2. The Department shall issue a license to rehabilitate migratory birds only to persons 18 years of age or older. A minor's parent or legal guardian shall cosign the application of a minor to rehabilitate any other species and shall ensure that the application is notarized before submittal. See subsection (B)(3).
 3. The applicant shall provide documentation to prove one or more of the following:
 - a. A valid, current license issued by a state veterinary medical examination authority, authorizing the applicant to practice as a veterinarian;
 - b. A minimum of six months of experience performing wildlife rehabilitative work for an average of not less than eight hours per week for the taxa of animals covered under the license, while assisting a licensed wildlife rehabilitator, a veterinarian, or a state or federal wildlife agency; or
 - c. A current, valid wildlife rehabilitation license, issued by the government of any state or the United States.
 4. The applicant shall provide documentation that, within the last five years, the applicant has answered correctly at least 80% of the questions on a written or tape-recorded examination, supervised and administered by the Depart-

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ment, related to: wildlife rehabilitation; handling, transport, humane treatment, and nutritional, behavioral, developmental, ecological, and habitat requirements of wildlife; captivity standards established under R12-4-428; human and wildlife safety considerations; this Section; and R12-4-409.

- a. The Department shall administer the examination by appointment at any Department office during normal working hours.
 - b. The Department shall mail the written score of the examination to the applicant within 30 calendar days of the examination date.
 - c. The Department shall consider only those sections of the examination that are applicable to the taxa of wildlife for which the license is sought in establishing the qualifications of the applicant; and
5. Any licensee who, before the expiration of a Department license to rehabilitate wildlife, applies to continue without change the authorized activities for the authorized species and for no others is exempt from the written examination required by subsection (C)(4), unless written reports filed under subsection (Q) show that no rehabilitative functions were performed during the license period preceding the one for which the application is submitted.
- D.** An applicant shall use a form available from any Department office to apply for a wildlife rehabilitation license. Applications and licenses issued under this Section shall reference the taxa defined in subsection (A) or shall specify specific species.
1. The applicant shall submit the following information on the form:
 - a. Name, date of birth, mailing address, and telephone number of the applicant;
 - b. Names, dates of birth, mailing addresses, and telephone numbers of all agents;
 - c. Street addresses or legal descriptions of all premises at which wildlife rehabilitation facilities would be established
 - d. The taxa or species of wildlife proposed to be rehabilitated; and
 - e. Signature of the applicant and date of application submittal.
 2. The applicant shall include with the form typed, signed statements executed by all proposed agents, acknowledging that their privilege to take or possess wildlife is not under current suspension or revocation by the government of any state or of the United States.
 3. The applicant shall also include with the form a typed, signed narrative statement demonstrating, describing, or including at a minimum the following:
 - a. Whether the applicant requests that methods of disposition of wildlife include export, transfer to a licensed zoo, or other methods under direction of the Department;
 - b. If the application concerns rehabilitation of taxa not currently authorized by the Department, a statement of the applicant's training and experience in handling, capturing, rehabilitating, and caring for, the taxa for which the application is submitted;
 - c. Detailed diagrams of all rehabilitation facilities in which wildlife would be held, including facilities to be used by agents. The diagrams must describe holding facility dimensions, though not necessarily to scale, materials, location relative to buildings and fences, and relevant information about proposed construction and expected completion dates; and
 - d. A description of the procedures to be employed to ensure the standards set in R12-4-428 are always met, including cleaning methods; food and water supply; shelter; bedding; and mechanisms for prevention of escape by wildlife and, for potentially dangerous animals, protection of human safety.
 4. If required by subsection (C), the application shall include documentation of a passing score on the examination prescribed in subsection (C)(4).
 5. The applicant shall submit one or more of the following with the application:
 - a. A typed, signed statement that the applicant is a licensed, practicing veterinarian;
 - b. A typed, signed statement from the Department's Adobe Mountain Wildlife Center Coordinator that the Center will assist the applicant in providing rehabilitative treatment for the wildlife to be held under the license; or
 - c. A typed, signed statement from a licensed, practicing veterinarian that the veterinarian is reasonably available to give veterinary services requested by the licensee as necessary to facilitate rehabilitation of wildlife. The licensee shall be responsible for any veterinary expenses.
 6. A licensee seeking renewal of a wildlife rehabilitation license without change of species, location, or design of facilities may reference supportive materials submitted previously, rather than submitting copies of the materials with the application for renewal.
- E.** A licensee may, at any time during the license period, make a written request to amend the license to add or delete agents, to add or delete premises, or to obtain authority to rehabilitate additional taxa of wildlife. The request shall meet the requirements of subsections (C)(4) and (D)(1) through (D)(3). The Department shall grant or deny a request within 60 calendar days of receipt.
- F.** A licensee may accept donations to defray expenses or to provide materials or facilities essential to the licensed activity. Only those activities allowed under a wildlife rehabilitation license, as identified in subsection (B), are permitted during the solicitation of donations.

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- G. A licensee shall capture, remove, transport, and release wildlife under this Section in a manner that is least likely to cause injury to the affected wildlife.
- H. A licensee authorized to rehabilitate big game mammals, golden eagles, Gila monsters, twin-spotted rattlesnakes, banded rock rattlesnakes, endangered or threatened species, or threatened native wildlife as defined in R12-4-401 shall, within 24 hours of receiving the individual animal, contact the Department for instructions in handling that animal. While awaiting instructions, emergency veterinary care shall be provided as necessary.
- I. Except when the Department has authorized possession for a longer period, a licensee shall not possess a raptor longer than 180 days; or other wildlife longer than 90 days. A licensee shall submit a written request to the Department to hold wildlife in excess of this period. The Department may require the licensee to provide a typed, signed statement from a licensed veterinarian listing the medical reasons for the extension if there is a dispute between the Department and the licensee regarding the medical necessity for the requested extension. The Department shall grant or deny a request for extension within 10 days of receipt of the request or the veterinarian's statement. The licensee may continue to hold the specified wildlife while the Department considers the request. The Department shall deny a request for extension in writing and shall include in the written denial specific, time-dated directions on disposition of the animal.
- J. A licensee may hold wildlife under a wildlife rehabilitation license after the wildlife reaches a state of restored health only for the amount of time reasonably necessary to make humane disposition of the wildlife, but in no case for longer than has been authorized under subsection (I). Rehabilitated wildlife shall be released at an ecologically appropriate time of year and into a habitat suitable to sustain it:
 - 1. In the same geographic area as the animal was originally obtained, except that birds may be released at any location statewide within the normal range of that species in ecologically suitable habitat; or
 - 2. In an area designated by the Department; and
 - 3. Without immediate threat to the animal of injurious contact with humans.
- K. To permanently hold rehabilitated wildlife that is unsuitable for release, a licensee shall apply for a wildlife holding license under R12-4-417.
- L. Unless otherwise stipulated in the license, a licensee shall dispose of all wildlife that is euthanized or that otherwise dies while held under license within 30 days of death by burial or incineration, except that the licensee shall transfer all carcasses of endangered or threatened species, threatened native wildlife, or golden eagles to the Department.
- M. A licensee shall ensure that a copy of the approved license and application accompanies any shipment or transport of wildlife under this Section, and is available for inspection at each of the premises authorized by the license.
- N. A licensee shall keep a current log that shows the date of acquisition, location, and disposition of all wildlife held under the license.
- O. Before January 16 of each year, a licensee shall file a written report on activities performed under the license for the previous calendar year. The licensee shall report on a form available from the Department. The written report shall contain the following information:
 - 1. The name, address, and telephone number of the licensee and all agents;
 - 2. The permit or license number of any federal permits or licenses that relate to any rehabilitative function performed by the licensee; and
 - 3. An itemized list of each animal held under the license during the calendar year for which activity is being reported. For each animal held by the licensee or agent, the itemization shall include the: name of the species; condition that required rehabilitation; source, location, and date of acquisition; if reasonably determinable, age class at acquisition; status at disposition or end-of-year relative to the condition requiring rehabilitation; and method, place, and date of disposition. A copy of the rehabilitator's federal permit report of activities related to federally protected wildlife satisfies this reporting requirement for federally protected wildlife.
- P. A licensee shall participate in one of the following during the license period:
 - 1. Eight hours or more of continuing education sessions on wildlife rehabilitation, offered by the Department at no fee. The Department shall provide each licensee with a minimum of 30 calendar days' notice of the sessions.
 - 2. Eight hours or more of continuing education sessions on wildlife rehabilitation, offered by an accredited university or college; the National Wildlife Rehabilitators Association, R.R. 1, Box 125 E, Brighton, Illinois 62012; or the International Wildlife Rehabilitation Council, P.O. Box 3007, Walnut Creek, California 94598.
- Q. A licensee shall obtain written authorization from the Department under subsections (D) or (E) before designating any agent. The agent shall have the authorization in possession and available for inspection while in possession of wildlife. The licensee is responsible for acts of the agent if they fall within the framework of this Section. The Department may suspend or revoke the rehabilitation license for violation of this Section by an agent.
- R. A wildlife rehabilitation license expires on December 31 of the second year following the date of issuance of the license.
- S. A wildlife rehabilitation license is subject to R12-4-409 and R12-4-428.
- ~~T. This rule is effective July 1, 2001.~~

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R12-4-430. Importation, Handling, and Possession of Cervids

- A.** For the purposes of this Section, the following definitions apply:
1. “Cervid” means a mammal classified as a Cervidae or member of the deer family found anywhere in the world, as defined in the taxonomic classification from Volumes I and II of Walker’s Mammals of the World. A copy is available for inspection at any Department office.
 2. “Native cervid” means any member of the deer family in the genus *Alces*, common name moose; the genus *Odocoileus*, common name white-tailed and mule deer; or the genus *Cervus*, common name red deer, wapiti, and elk; or the genus *Rangifer*, common name reindeer and caribou.
 3. “Private game farm” means any facility licensed by the Arizona Game and Fish Department under R12-4-413.
 4. “Wildlife disease” means a disease that poses a health risk to wildlife in Arizona.
 5. “Zoo” means any facility licensed by the Arizona Game and Fish Department under R12-4-420.
 6. “Zoonotic” means a disease that can be transmitted to humans from vertebrate animals.
- B.** Except as provided in R12-4-418, upon the effective date of this Section, no new special licenses will be issued for live cervids.
- C.** An individual, including any special license holder, shall not import a live cervid into Arizona except as allowed in subsection (K).
- D.** Except as allowed under subsection (L), an individual shall not transport a live cervid within Arizona except to:
1. Export the live cervid from Arizona for a lawful purpose;
 2. Transport the live cervid to a facility for the purpose of slaughter, when the slaughter will take place within five days of the date of transport;
 3. Transport the live cervid to or from a licensed veterinarian for medical care; or
 4. Transport the live cervid to a new holding facility owned by, or under the control of, the cervid owner, when all of the following apply:
 - a. The current holding facility has been sold or closed;
 - b. Ownership, possession, custody, or control of the cervid will not be transferred to another individual; and
 - c. The owner of the cervid has prior written approval from the Director of the Arizona Game and Fish Department.
- E.** An individual who lawfully possesses a live cervid held in captivity on the effective date of this Section, except any cervid held under a private game farm, wildlife holding, or zoo license, shall, within 30 days of the effective date of this Section, provide the Department with a written report that contains the following:
1. Name, address, and telephone number of the person possessing the live cervid;
 2. Number, genus, and species of any live cervid held; and
 3. Location where the live cervid is held.
- F.** An individual who lawfully possesses a live cervid held in captivity on the effective date of this Section, except any cervid held under a private game farm, wildlife holding, or zoo license, may continue to possess the live cervid and shall only dispose of the live cervid by the following methods:
1. Exportation.
 2. Euthanasia, or
 3. As otherwise directed by the Department.
- G.** An individual who lawfully possesses a live cervid under a private game farm, wildlife holding, or zoo license shall not move, or allow another to move, the cervid from the premises of the game farm, wildlife holding facility, or zoo except to:
1. Export the live cervid from Arizona for a lawful purpose.
 2. Transport the live cervid to a facility for the purpose of slaughter, or
 3. Transport the live cervid to or from a licensed veterinarian for medical care.
- H.** In addition to the recordkeeping requirements of R12-4-413, R12-4-417, and R12-4-420, an individual who possesses a live native cervid under a private game farm, wildlife holding, or zoo license on the effective date of this Section, and subsequent to the effective date of this Section for progeny, shall:
1. Permanently mark each live native cervid with either an individually identifiable microchip or tattoo within 30 days of the effective date of this Section;
 2. Permanently mark the progeny of each live native cervid with either an individually identifiable microchip or tattoo; and
 3. Within 30 days of the effective date of this Section, and annually by December 15, provide the Department with a report listing the following for each live native cervid in the licensee’s possession:
 - a. Name of the license holder.
 - b. License holder’s address and telephone number.
 - c. Number and species of live native cervids held.
 - d. The microchip or tattoo number of each live native cervid held, and
 - e. The disposition of all native cervids that were moved or that died in the six months before the effective date of this Section or during the current reporting period.

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- I.** The holder of a private game farm, wildlife holding, or zoo license shall ensure that the head of a native cervid that dies while held under the special licenses (except a native cervid that is slaughtered as allowed under this Section, R12-4-413, R12-4-417, and R12-4-420) is submitted within 72 hours of the time of death to the University of Arizona Veterinary Diagnostic Laboratory for chronic wasting disease analysis. The licensee shall ensure that the shipment of the deceased animal's head is made by a common, private, or contract carrier that utilizes a tracking number system to track the shipment. The Arizona Game and Fish Department shall pay for the cost of the laboratory analysis. The holder of a private game farm, wildlife holding, or zoo license shall include the following information with the shipment of the deceased animal's head:
1. Name of the license holder,
 2. License holder's address, and
 3. License holder's telephone number.
- J.** If a zoonotic or wildlife disease, as determined by a person with relevant wildlife disease expertise, exists in any facility or on property holding cervids, and the zoonotic or wildlife disease poses an immediate threat to wildlife or humans, including those animals held under special license, the Arizona Game and Fish Department's Director shall order the immediate quarantine of all wildlife held at the facility or on the property. The Director may suspend the provisions of any applicable special license and order the humane disposition of any affected animal based on an assessment of the threat to public or wildlife health, safety, or welfare. An individual who possesses a cervid where an identified zoonotic or wildlife health risk exists shall, as ordered by the Director, quarantine the wildlife, test the wildlife for disease, submit a biological sample to the Department or its designee, and, if necessary, destroy and dispose of the wildlife as directed by the Department.
- K.** A holder of a zoo license may import any live cervid, except a native cervid, for exhibit, educational display, or propagation only if the cervid is quarantined for 30 days upon arrival, and the cervid is procured from a facility that complies with the following requirements:
1. The exporting facility has no history of chronic wasting disease or other diseases that pose a serious health risk to wildlife or humans, and there is accompanying documentation from the facility certifying that there is no history of disease at the facility;
 2. The cervid is accompanied by a health certificate issued by a licensed veterinarian in the jurisdiction of origin, and the health certificate is issued within 30 days of import; and
 3. The cervid is accompanied by evidence of lawful possession as defined in R12-4-401.
- L.** A holder of a zoo license may transport within Arizona any live cervid, except a native cervid, for the purpose of procurement or propagation only if the cervid is quarantined for 30 days upon arrival at its destination, and only if the cervid is procured from a facility that complies with the following requirements:
1. The originating facility has no history of chronic wasting disease or other diseases that pose a serious health risk to wildlife or humans, and there is accompanying documentation from the facility certifying that there is no history of disease at the facility;
 2. The cervid is accompanied by a health certificate issued by a licensed veterinarian in the jurisdiction of origin, and the health certificate is issued within 30 days of transport; and
 3. The cervid is accompanied by evidence of lawful possession as defined in R12-4-401.
- M.** An individual who possesses a cervid shall comply with all procedures for tuberculosis control and eradication for cervids prescribed in the USDA publication "Bovine Tuberculosis Eradication – Uniform Methods and Rules," USDA APHIS 91-45-011, effective January 22, 1999. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P.O. Box 96464, Washington D.C., 20090-6464.
- N.** An individual who possesses a cervid shall comply with the procedures for the prevention, control, and eradication of Brucellosis in cervids as prescribed in the United States Department of Agriculture publication "Brucellosis in Cervidae: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-12, effective September 30, 1998, revised effective May 14, 1999. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P.O. Box 96464, Washington D.C., 20090-6464.
- O.** An individual who possesses a cervid shall comply with the procedures for the prevention, control, and eradication of Brucellosis in cervids as prescribed in the United States Department of Agriculture publication "Brucellosis Eradication: Uniform Methods and Rules" U.S.D.A. A.P.H.I.S. 91-45-11, effective February 1, 1998. This material is incorporated by reference in this Section but does not include any later amendments or editions. A copy is on file with the Secretary of State and is available from any Department office, or it may be ordered from the USDA APHIS Veterinary Services, Cattle Disease and Surveillance Staff, P.O. Box 96464, Washington D.C., 20090-6464.
- P.** The Department has the authority to seize, destroy, and dispose of, at the owner's expense, any cervid possessed in violation of this Section.